

AMENDED IN ASSEMBLY APRIL 16, 2012

AMENDED IN ASSEMBLY JUNE 20, 2011

SENATE BILL

No. 50

Introduced by Senators Correa and Blakeslee

December 15, 2010

An act to amend Section 86203 of, and to add Section 89504 to, the Government Code, relating to the Political Reform Act of 1974. An act to amend Sections 23152 and 23153 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 50, as amended, Correa. ~~Lobbyist employers: gifts. Vehicles: driving under the influence: controlled substances.~~

(1) Existing law makes it a crime for a person who is under the influence of alcohol or any drug, or under the combined influence of alcohol and any drug, to drive a vehicle. Existing law also makes it a crime for a person to drive a vehicle with 0.08% or more, by weight, of alcohol in his or her blood.

This bill would, in addition, make it a crime for a person to have a controlled substance in his or her blood while driving a vehicle.

(2) Existing law makes it a crime for a person who drives a vehicle under the influence of alcohol or any drug, or under the combined influence of alcohol and any drug, to do any act forbidden by law or neglect any duty imposed by law while driving a vehicle when that act or neglected duty is the proximate cause of bodily injury to any person other than the driver. Existing law also makes it a crime for a person who drives a vehicle with 0.08% or more, by weight, of alcohol in his or her blood to do any act forbidden by law or neglect any duty imposed

by law while driving a vehicle when that act or neglected duty is the proximate cause of bodily injury to any person other than the driver.

This bill would, in addition, make it a crime for a person to have a controlled substance in his or her blood while driving a vehicle and to do any act forbidden by law or neglect any duty imposed by law while driving when that act or neglected duty is the proximate cause of bodily injury to any person other than the driver.

(3) Under existing law, there is a rebuttable evidentiary presumption that a person was under the influence of alcohol at the time he or she drove a vehicle if he or she had 0.08% or more, by weight, of alcohol in his or her blood at the time of a chemical test if the chemical test was done within 3 hours of when the person drove the vehicle.

This bill would create a rebuttable evidentiary presumption that a person had a controlled substance in his or her blood at the time he or she drove a vehicle if the person had a controlled substance in his or her blood at the time of the performance of a chemical test if the test is done within 3 hours after the person drove the vehicle.

(4) Because this bill would create new crimes, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~The Political Reform Act of 1974 regulates the receipt of gifts by public officials and also regulates the activities of members of the lobbying industry, including lobbyist employers. Under existing law, public officials are prohibited from accepting gifts from any single source in any calendar year with a total value of more than \$250, as adjusted biennially by the Fair Political Practices Commission. Existing law also prohibits a lobbyist or lobbying firm from giving gifts to a public official aggregating more than \$10 in a calendar month or from acting as an agent or intermediary in the making of any gift or arranging for the making of any gift by any other person.~~

~~This bill would prohibit a lobbyist, lobbying firm, or lobbyist employer from giving to an elected state officer or a member of that officer's immediate family, and would prohibit an elected state officer from accepting from a lobbyist, lobbying firm, or lobbyist employer, certain gifts, including tickets to specified venues and events, spa~~

treatments, recreational trips, and gift cards. However, under the bill, these prohibitions would not apply to a fundraising event for a bona fide charitable organization.

Existing law makes a violation of the Political Reform Act of 1974 subject to administrative, civil, and criminal penalties. This bill would impose a state-mandated local program by creating additional crimes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes upon a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill would declare that it furthers the purposes of the act.

Vote: $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 23152 of the Vehicle Code, as amended
2 by Section 31 of Chapter 455 of the Statutes of 1995, is amended
3 to read:

4 23152. (a) It is unlawful for ~~any~~ a person who is under the
5 influence of any alcoholic beverage or drug, or under the combined
6 influence of any alcoholic beverage and drug, to drive a vehicle.

7 (b) (1) It is unlawful for ~~any~~ a person who has 0.08 percent or
8 more, by weight, of alcohol in his or her blood to drive a vehicle.

9 ~~For~~

10 (2) For purposes of this article and Section 34501.16, percent,
11 by weight, of alcohol in a person's blood is based upon grams of
12 alcohol per 100 milliliters of blood or grams of alcohol per 210
13 liters of breath.

14 ~~In~~

15 (3) In any prosecution under this subdivision, it is a rebuttable
16 presumption that the person had 0.08 percent or more, by weight,
17 of alcohol in his or her blood at the time of driving the vehicle if
18 the person had 0.08 percent or more, by weight, of alcohol in his

1 or her blood at the time of the performance of a chemical test
2 within three hours after the driving.

3 (c) It is unlawful for ~~any~~ a person who is addicted to the use of
4 any drug to drive a vehicle. This subdivision shall not apply to a
5 person who is participating in a narcotic treatment program
6 approved pursuant to Article 3 (commencing with Section 11875)
7 of Chapter 1 of Part 3 of Division 10.5 of the Health and Safety
8 Code.

9 (d) (1) It is unlawful for any person who has 0.04 percent or
10 more, by weight, of alcohol in his or her blood to drive a
11 commercial motor vehicle, as defined in Section 15210.

12 ~~In~~

13 (2) *In any prosecution under this subdivision, it is a rebuttable*
14 *presumption that the person had 0.04 percent or more, by weight,*
15 *of alcohol in his or her blood at the time of driving the vehicle if*
16 *the person had 0.04 percent or more, by weight, of alcohol in his*
17 *or her blood at the time of the performance of a chemical test*
18 *within three hours after the driving.*

19 (e) (1) *It is unlawful for a person who has a controlled*
20 *substance in his or her blood to drive a vehicle.*

21 (2) *In any prosecution under this subdivision, it is a rebuttable*
22 *presumption that the person had a controlled substance in his or*
23 *her blood at the time of driving the vehicle if the person had any*
24 *measurable amount of a controlled substance in his or her blood*
25 *at the time of the performance of a chemical test within three hours*
26 *after the driving.*

27 (3) *For purposes of this subdivision, a controlled substance*
28 *is any of the following:*

29 (A) *A controlled substance as specified in subdivision (b) or*
30 *(c), paragraph (14), (15), (21), (22), or (23) of subdivision (d),*
31 *subdivision (e), or paragraph (1) of subdivision (f) of Section 11054*
32 *of the Health and Safety Code, or subdivision (b) or (c), paragraph*
33 *(1) or (2) of subdivision (d), or paragraph (3) of subdivision (e)*
34 *of Section 11055 of the Health and Safety Code.*

35 (B) *A narcotic drug classified in Schedule III of Section 11056,*
36 *Schedule IV of Section 11057, or Schedule V of Section 11058 of*
37 *the Health and Safety Code, except when administered by or under*
38 *the direction of a person licensed by the state to dispense,*
39 *prescribe, or administer controlled substances. The defendant*
40 *shall bear the burden of showing that the exception applies.*

1 ~~(e)~~

2 (f) This section shall become operative on January 1, 1992, and
3 shall remain operative until the director determines that federal
4 regulations adopted pursuant to the Commercial Motor Vehicle
5 Safety Act of 1986 (49 U.S.C. Sec. 2701 et seq.) contained in
6 Section 383.51 or 391.15 of Title 49 of the Code of Federal
7 Regulations do not require the state to prohibit operation of
8 commercial vehicles when the operator has a concentration of
9 alcohol in his or her blood of 0.04 percent by weight or more.

10 ~~(f)~~

11 (g) The director shall submit a notice of the determination under
12 subdivision~~(e)~~ (f) to the Secretary of State, and this section shall
13 be repealed upon the receipt of that notice by the Secretary of
14 State.

15 *SEC. 2. Section 23152 of the Vehicle Code, as amended by*
16 *Section 32 of Chapter 455 of the Statutes of 1995, is amended to*
17 *read:*

18 23152. (a) It is unlawful for~~any~~ a person who is under the
19 influence of any alcoholic beverage or drug, or under the combined
20 influence of any alcoholic beverage and drug, to drive a vehicle.

21 (b) (1) It is unlawful for~~any~~ a person who has 0.08 percent or
22 more, by weight, of alcohol in his or her blood to drive a vehicle.

23 ~~For~~

24 (2) For purposes of this article and Section 34501.16, percent,
25 by weight, of alcohol in a person's blood is based upon grams of
26 alcohol per 100 milliliters of blood or grams of alcohol per 210
27 liters of breath.

28 ~~In~~

29 (3) In any prosecution under this subdivision, it is a rebuttable
30 presumption that the person had 0.08 percent or more, by weight,
31 of alcohol in his or her blood at the time of driving the vehicle if
32 the person had 0.08 percent or more, by weight, of alcohol in his
33 or her blood at the time of the performance of a chemical test
34 within three hours after the driving.

35 (c) It is unlawful for~~any~~ a person who is addicted to the use of
36 any drug to drive a vehicle. This subdivision shall not apply to a
37 person who is participating in a narcotic treatment program
38 approved pursuant to Article 3 (commencing with Section 11875)
39 of Chapter 1 of Part 3 of Division 10.5 of the Health and Safety
40 Code.

1 (d) (1) *It is unlawful for a person to who has a controlled*
2 *substance in his or her blood to drive a vehicle.*

3 (2) *In any prosecution under this subdivision, it is a rebuttable*
4 *presumption that the person had a controlled substance in his or*
5 *her blood at the time of driving the vehicle if the person had any*
6 *measurable amount of a controlled substance in his or her blood*
7 *at the time of the performance of a chemical test within three hours*
8 *after the driving.*

9 (3) *For purposes of this subdivision, a controlled substance*
10 *is any of the following:*

11 (A) *A controlled substance as specified in subdivision (b) or*
12 *(c), paragraph (14), (15), (21), (22), or (23) of subdivision (d),*
13 *subdivision (e), or paragraph (1) of subdivision (f) of Section 11054*
14 *of the Health and Safety Code, or subdivision (b) or (c), paragraph*
15 *(1) or (2) of subdivision (d), or paragraph (3) of subdivision (e)*
16 *of Section 11055 of the Health and Safety Code.*

17 (B) *A narcotic drug classified in Schedule III of Section 11056,*
18 *Schedule IV of Section 11057, or Schedule V of Section 11058 of*
19 *the Health and Safety Code, except when administered by or under*
20 *the direction of a person licensed by the state to dispense,*
21 *prescribe, or administer controlled substances. The defendant*
22 *shall bear the burden of showing that the exception applies.*

23 ~~(d)~~

24 (e) *This section shall become operative only upon the receipt*
25 *by the Secretary of State of the notice specified in subdivision (f)*
26 *of Section 23152, as added by Section 25 of Chapter 1114 of the*
27 *Statutes of 1989.*

28 SEC. 3. *Section 23153 of the Vehicle Code, as amended by*
29 *Section 18 of Chapter 974 of the Statutes of 1992, is amended to*
30 *read:*

31 23153. (a) *It is unlawful for~~any~~ a person, while under the*
32 *influence of any alcoholic beverage or drug, or under the combined*
33 *influence of any alcoholic beverage and drug, to drive a vehicle*
34 *and concurrently do any act forbidden by law, or neglect any duty*
35 *imposed by law in driving the vehicle, which act or neglect*
36 *proximately causes bodily injury to~~any~~ a person other than the*
37 *driver.*

38 (b) (1) *It is unlawful for~~any~~ a person, while having 0.08 percent*
39 *or more, by weight, of alcohol in his or her blood to drive a vehicle*
40 *and concurrently do any act forbidden by law, or neglect any duty*

1 imposed by law in driving the vehicle, which act or neglect
2 proximately causes bodily injury to ~~any~~ a person other than the
3 driver.

4 ~~In~~

5 (2) *In any prosecution under this subdivision, it is a rebuttable*
6 *presumption that the person had 0.08 percent or more, by weight,*
7 *of alcohol in his or her blood at the time of driving the vehicle if*
8 *the person had 0.08 percent or more, by weight, of alcohol in his*
9 *or her blood at the time of the performance of a chemical test*
10 *within three hours after driving.*

11 (c) *In proving the person neglected any duty imposed by law*
12 *in driving the vehicle, it is not necessary to prove that any specific*
13 *section of this code was violated.*

14 (d) (1) *It is unlawful for ~~any~~ a person, while having 0.04 percent*
15 *or more, by weight, of alcohol in his or her blood to drive a*
16 *commercial motor vehicle, as defined in Section 15210, and*
17 *concurrently to do any act forbidden by law or neglect any duty*
18 *imposed by law in driving the vehicle, which act or neglect*
19 *proximately causes bodily injury to ~~any~~ a person other than the*
20 *driver.*

21 ~~In~~

22 (2) *In any prosecution under this subdivision, it is a rebuttable*
23 *presumption that the person had 0.04 percent or more, by weight,*
24 *of alcohol in his or her blood at the time of driving the vehicle if*
25 *the person had 0.04 percent or more, by weight, of alcohol in his*
26 *or her blood at the time of performance of a chemical test within*
27 *three hours after driving.*

28 (e) (1) *It is unlawful for a person who has a controlled*
29 *substance in his or her blood to drive a vehicle and concurrently*
30 *do any act forbidden by law, or neglect any duty imposed by law*
31 *in driving the vehicle, which act or neglect proximately causes*
32 *bodily injury to a person other than the driver.*

33 (2) *In any prosecution under this subdivision, it is a rebuttable*
34 *presumption that the person had a controlled substance in his or*
35 *her blood at the time of driving the vehicle if the person had any*
36 *measurable amount of a controlled substance in his or her blood*
37 *at the time of the performance of a chemical test within three hours*
38 *after the driving.*

39 (3) *For purposes of this subdivision, a controlled substance*
40 *is any of the following:*

1 (A) A controlled substance as specified in subdivision (b) or
2 (c), paragraph (14), (15), (21), (22), or (23) of subdivision (d),
3 subdivision (e), or paragraph (1) of subdivision (f) of Section 11054
4 of the Health and Safety Code, or subdivision (b) or (c), paragraph
5 (1) or (2) of subdivision (d), or paragraph (3) of subdivision (e)
6 of Section 11055 of the Health and Safety Code.

7 (B) A narcotic drug classified in Schedule III of Section 11056,
8 Schedule IV of Section 11057, or Schedule V of Section 11058 of
9 the Health and Safety Code, except when administered by or under
10 the direction of a person licensed by the state to dispense,
11 prescribe, or administer controlled substances. The defendant
12 shall bear the burden of showing that the exception applies.

13 ~~(e)~~

14 (f) This section shall become operative on January 1, 1992, and
15 shall remain operative until the director determines that federal
16 regulations adopted pursuant to the Commercial Motor Vehicle
17 Act of 1986 (49 U.S.C. Sec. 2701 et seq.) contained in Section
18 383.51 or 391.15 of Title 49 of the Code of Federal Regulations
19 do not require the state to prohibit operation of commercial vehicles
20 when the operator has a concentration of alcohol in his or her blood
21 of 0.04 percent by weight or more.

22 ~~(f)~~

23 (g) The director shall submit a notice of the determination under
24 subdivision~~(e)~~ (f) to the Secretary of State, and this section shall
25 be repealed upon the receipt of that notice by the Secretary of
26 State.

27 SEC. 4. Section 23153 of the Vehicle Code, as amended by
28 Section 19 of Chapter 974 of the Statutes of 1992, is amended to
29 read:

30 23153. (a) It is unlawful for~~any~~ a person, while under the
31 influence of any alcoholic beverage or drug, or under the combined
32 influence of any alcoholic beverage and drug, to drive a vehicle
33 and concurrently do any act forbidden by law or neglect any duty
34 imposed by law in driving the vehicle, which act or neglect
35 proximately causes bodily injury to~~any~~ a person other than the
36 driver.

37 (b) (1) It is unlawful for~~any~~ a person, while having 0.08 percent
38 or more, by weight, of alcohol in his or her blood to drive a vehicle
39 and concurrently do any act forbidden by law or neglect any duty
40 imposed by law in driving the vehicle, which act or neglect

proximately causes bodily injury to ~~any~~ a person other than the driver.

~~In~~

(2) *In any prosecution under this subdivision, it is a rebuttable presumption that the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after driving.*

(c) (1) *It is unlawful for a person to have a controlled substance in his or her blood to drive a vehicle and concurrently do any act forbidden by law, or neglect any duty imposed by law in driving the vehicle, which act or neglect proximately causes bodily injury to a person other than the driver.*

(2) *In any prosecution under this subdivision, it is a rebuttable presumption that the person had a controlled substance in his or her blood at the time of driving the vehicle if the person had any measurable amount of a controlled substance in his or her blood at the time of the performance of a chemical test within three hours after the driving.*

(3) *For purposes of this subdivision, a controlled substance is any of the following:*

(A) *A controlled substance as specified in subdivision (b) or (c), paragraph (14), (15), (21), (22), or (23) of subdivision (d), subdivision (e), or paragraph (1) of subdivision (f) of Section 11054 of the Health and Safety Code, or subdivision (b) or (c), paragraph (1) or (2) of subdivision (d), or paragraph (3) of subdivision (e) of Section 11055 of the Health and Safety Code.*

(B) *A narcotic drug classified in Schedule III of Section 11056, Schedule IV of Section 11057, or Schedule V of Section 11058 of the Health and Safety Code, except when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances. The defendant shall bear the burden of showing that the exception applies.*

~~(e)~~

(d) *In proving the person neglected any duty imposed by law in driving the vehicle, it is not necessary to prove that any specific section of this code was violated.*

~~(d)~~

(e) This section shall become operative only upon the receipt by the Secretary of State of the notice specified in subdivision (f) of Section 23153, ~~as added by Section 30 of Chapter 1114 of the Statutes of 1989.~~

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

~~SECTION 1. Section 86203 of the Government Code is amended to read:~~

~~86203. (a) It is unlawful for a lobbyist or lobbying firm to make gifts to one person aggregating more than ten dollars (\$10) in a calendar month, or to act as an agent or intermediary in the making of any gift, or to arrange for the making of any gift by any other person.~~

~~(b) (1) It is unlawful for a lobbyist, lobbying firm, or lobbyist employer to give to an elected state officer or to a member of that officer's immediate family, from the date the officer is elected to the date he or she vacates office, any of the following gifts:~~

~~(A) A theme park or amusement park ticket.~~

~~(B) A professional sporting event ticket.~~

~~(C) A collegiate or other amateur sporting event ticket with a face value exceeding twenty-five dollars (\$25).~~

~~(D) A theater, concert, or other entertainment ticket with a face value exceeding twenty-five dollars (\$25).~~

~~(E) A racetrack ticket.~~

~~(F) A spa treatment, or other beauty or cosmetic service.~~

~~(G) A golf, skiing, hunting, or fishing trip, or other recreational outing or vacation.~~

~~(H) A gift card.~~

~~(2) The prohibitions in this subdivision do not apply to a fundraising event for a bona fide charitable organization.~~

~~(3) Beginning on January 1, 2015, the Commission shall adjust the gift limitations in subparagraphs (C) and (D) of paragraph (1)~~

1 on January 1 of each odd-numbered year to reflect changes in the
2 Consumer Price Index, rounded to the nearest dollar.

3 SEC. 2. ~~Section 89504 is added to the Government Code, to~~
4 ~~read:~~

5 89504. (a) ~~An elected state officer, from the date the officer~~
6 ~~is elected to the date he or she vacates office, shall not accept as~~
7 ~~a gift from a lobbyist, lobbying firm, or lobbyist employer any of~~
8 ~~the following:~~

9 (1) ~~A theme park or amusement park ticket.~~

10 (2) ~~A professional sporting event ticket.~~

11 (3) ~~A collegiate or other amateur sporting event ticket with a~~
12 ~~face value exceeding twenty-five dollars (\$25).~~

13 (4) ~~A theater, concert, or other entertainment ticket with a face~~
14 ~~value exceeding twenty-five dollars (\$25).~~

15 (5) ~~A racetrack ticket.~~

16 (6) ~~A spa treatment, or other beauty or cosmetic service.~~

17 (7) ~~A golf, skiing, hunting, or fishing trip, or other recreational~~
18 ~~outing or vacation.~~

19 (8) ~~A gift card.~~

20 (b) ~~The prohibitions in this section do not apply to a fundraising~~
21 ~~event for a bona fide charitable organization.~~

22 (c) ~~Beginning on January 1, 2015, the Commission shall adjust~~
23 ~~the gift limitations in paragraphs (3) and (4) of subdivision (a) on~~
24 ~~January 1 of each odd-numbered year to reflect changes in the~~
25 ~~Consumer Price Index, rounded to the nearest dollar.~~

26 (d) ~~For purposes of this section, “gift” has the same meaning~~
27 ~~as set forth in Section 86201.~~

28 SEC. 3. ~~No reimbursement is required by this act pursuant to~~
29 ~~Section 6 of Article XIII B of the California Constitution because~~
30 ~~the only costs that may be incurred by a local agency or school~~
31 ~~district will be incurred because this act creates a new crime or~~
32 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
33 ~~for a crime or infraction, within the meaning of Section 17556 of~~
34 ~~the Government Code, or changes the definition of a crime within~~
35 ~~the meaning of Section 6 of Article XIII B of the California~~
36 ~~Constitution.~~

37 SEC. 4. ~~The Legislature finds and declares that this bill furthers~~
38 ~~the purposes of the Political Reform Act of 1974 within the~~

- 1 ~~meaning of subdivision (a) of Section 81012 of the Government~~
- 2 ~~Code.~~

O